

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Parks and Recreation

AGENDA DATE: January 25, 2005

CONTACT PERSON/PHONE: Dr. Norman C. Merrifield, Director

DISTRICT(S) AFFECTED: Citywide

SUBJECT:

Interlocal Agreement between the Texas Cooperative Extension Service and the City of El Paso's Quality of Life Departments (Zoo, Library and Parks and Recreation Departments)

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

This agreement will allow specialized consulting and program services be provided by the Texas Cooperative Extension Service to three (3) Quality of Life Departments. Example: staff training, turf and water management and public relations and public information.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

As required by state law and charter, a
(Not Specifically) _____

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

Funding: Library/Restricted Funds-53153053/407002/15454
Zoo/Enterprise Fund-52152004/502116/15455
Parks/General Fund-51010256/Salary Savings/01101

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign an Interlocal Agreement with Texas Cooperative Extension Services to provide management and problem-solving services for the City's Quality of Life Departments. The Agreement will be for a one-year term and shall not exceed a total cost of \$55,000. Funding shall be from the following sources: Library/Restricted Funds; Zoo/Enterprise Fund; Parks/General Fund.

ADOPTED this 25th day of January, 2005.


CITY OF EL PASO:

Joe Wardy, Mayor

ATTEST:

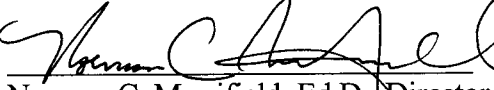
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT: \



Norman C. Merrifield, Ed.D., Director
Parks and Recreation Department



The Agriculture Program

THE TEXAS A&M UNIVERSITY SYSTEM

Office of the Vice Chancellor for Agriculture and Life Sciences

Jack K. Williams Administration Bldg., Suite 113
2142 TAMU College Station, Texas 77843-2142
Phone 979.845.4747 Fax 979.845.9938 <http://agprogram.tamu.edu>
January 20, 2005

John F. Nance
Assistant City Attorney
2 Civic Center Plaza
El Paso, TX 79901
915-541-4713
915-541-4710 (fax)

SUBJECT: Interlocal Agreement, Ruben Saldaña, our PI

Dear Mr. Nance:

Enclosed please find two original copies of the partially executed Interlocal Agreement which was faxed to you on January 20. Upon approval, please have the authorized representative sign both copies and return one copy for our use to:

Texas Cooperative Extension
Contracts and Grants, The Agriculture Program
2147 TAMU
College Station, TX 77843-2147.

If you have any questions, please contact Mark Andrews at (phone) 979-845-4782, (fax) 979-862-7775, or (e-mail) me-andrews@tamu.edu.

We appreciate the opportunity for cooperative research and trust the results will be mutually beneficial. If we can be of further assistance, please let us know.

Sincerely,

†Diane M. Gilliland
Assistant Director for Research Administration
Agriculture Program

DMG/mab
Enclosures

xc: Mr. K. Smith
Dr. B. McGee
B. Rue
R. Saldaña

Universities

Prairie View A&M University—College of Agriculture and Human Sciences,
Cooperative Agricultural Research Center, and Cooperative Extension Program
Tarleton State University—College of Agriculture and Human Sciences
Texas A&M University—College of Agriculture and Life Sciences, College of Veterinary Medicine
Texas A&M University—Commerce—Department of Agricultural Sciences
Texas A&M University—Kingsville—College of Agriculture and Human Sciences
West Texas A&M University—College of Agriculture, Nursing, Science and Engineering

Agencies

Texas Agricultural Experiment Station
Texas Cooperative Extension
Texas Forest Service
Texas Veterinary Medical Diagnostic Laboratory

STATE OF TEXAS)
) **INTERLOCAL AGREEMENT**
COUNTY OF EL PASO)

This Agreement, entered into this 25th day of January, 2005, by and between the City of El Paso, a municipal corporation situated in El Paso County, Texas, hereinafter referred to as “the City,” and Texas Cooperative Extension Services, a statewide educational agency and member of The Texas A & M University System, hereinafter referred to as “Extension,”

WITNESSETH

WHEREAS, the Quality of Life Departments of the City desire to obtain assistance in providing more effective management and problem solving in the Departments' program and operation sections; and,

WHEREAS, the City has determined that Extension is qualified to provide such assistance, and,

WHEREAS, Extension is willing to provide such assistance to the City; and

WHEREAS, the Texas Interlocal Cooperation Act, TEXAS GOVERNMENT CODE, §§791.001, et seq., allows local governments and political subdivisions of the state to contract among each other for governmental functions and services; and

WHEREAS, it is the intent of the parties that the functions and services to be performed pursuant to this Agreement constitute solely governmental functions and services.

NOW THEREFORE, the City and Extension, for the consideration set forth herein, agree as follows:

1. SCOPE OF SERVICES

Extension agrees to provide management and problem-solving services for the El Paso Zoo, the El Paso Public Library, and the City's Parks and Recreation Department as set forth in Attachment "A" and made a part hereof for all purposes.

2. TERM

The term of this Agreement shall begin January 1, 2005, and shall end December 31, 2005. The term of this Agreement may be extended upon the written approval of both parties.

3. COMPENSATION AND METHOD OF PAYMENT

The cost of the services hereunder shall not exceed FIFTY-FIVE THOUSAND AND NO/100 DOLLARS (\$55,000.00) during the initial term of this Agreement. The parties acknowledge that compensation for services provided hereunder shall be in accordance with the schedule of Fees for Services set forth in Attachment "A" and made a part hereof for all purposes. Partial billings may be made by Extension for work in progress. Extension agrees that at no time shall it make a claim against the City for more than the rate provided under the terms of this Agreement. Payment will be made to Extension within thirty (30) days following submittal of invoices to the City.

4. CERTIFICATION

The City and Extension hereby certify that the services to be provided by Extension are necessary and essential activities that are properly within the statutory functions and programs of the respective state and local entities.

5. APPLICABLE LAWS

Extension shall perform all services under this Agreement in accordance with all applicable local, state, and federal laws and regulations.

6. INDEPENDENT CONTRACTOR

The Parties are independent contractors. Except as may be expressly provided in this Agreement, no partnership or joint venture is intended to be created by this Agreement, nor any principal-agent or employer-employee relationship. Except to the extent expressly provided in this Agreement, neither of the Parties has, and neither of the Parties shall attempt to assert, the authority to make commitments for or to bind the other Party to any obligation.

7. ASSIGNMENT

The services to be provided under this Agreement are personal to Extension and cannot be assigned or delegated without the prior written consent of the City.

8. TERMINATION

A. Either Party may terminate this Agreement, if the other is in default, upon five (5) days' written notice to the other Party. The City or Extension may terminate this Agreement without cause upon thirty (30) days' written notice to the other Party.

B. Termination shall be without prejudice to any obligation by one Party to the other, which shall have accrued and be owing prior thereto.

9. NOTICES

All notices, communications and reports under this Agreement shall be hand delivered or mailed, certified, return receipt requested, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing by the other party:

City: Deputy City Manager for Quality of Life Services
City of El Paso
Two Civic Center Plaza
El Paso, Texas 79901-1196

Extension: Texas Cooperative Extension Service
Attention: Mr. Ruben Saldaña
County Extension Director
1030 North Zaragosa Road, Suite A
El Paso, Texas 79907

10. WAIVER

Action or inaction by either Party regarding any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

11. DISCRIMINATION

A. *Discrimination Prohibited:* No person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any programs or activity funded in whole or in part with funds made available to Extension pursuant to the terms of this Agreement, or any written amendment hereto.

B. *Specific Discriminatory Actions Prohibited:* Extension may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, creed, color, sex, national origin, age or disability, or having the effect of defeating or substantially impairing accomplishment of the objectives of the programs funded pursuant to this Agreement or any written amendment hereto with respect to individuals of a particular race, color, national origin, creed, sex, age or disability.

12. NO VERBAL AGREEMENT

This Agreement contains all commitments and agreements of the Parties hereto, and no verbal or written commitment shall have any force or effect if not contained herein. This Agreement may not be amended unless reduced to writing and executed by authorized representative of both Parties hereto.

13. VENUE

Venue for any legal action against the City shall lie in El Paso County, Texas. Venue for any legal action against Extension shall lie in Brazos County, Texas.

14. CONTRACT INTERPRETATION

In interpreting the various provisions of this Agreement in a court of law, any court having jurisdiction shall apply the laws of the State of Texas to interpret the terms and provisions in this Agreement.

15. SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected; and in lieu of each provision which is found to be illegal, invalid or unenforceable, there will be added as part of this Agreement a provision which preserves the intention of the unenforceable provision, but which complies with the law.

16 RISK ALLOCATION - LIMITATION OF LIABILITY

A. *No Indemnification.* The Parties expressly agree that neither Party shall have the right to seek indemnification or contribution from the other Party for any losses, costs, expenses, or damages directly or indirectly arising, in whole or part, from this Agreement.

B. *Governmental Function.* The Parties expressly agree that, in all things relating to this Agreement, the City is performing a governmental function, as defined by the Texas Tort Claims Act. Neither Party waives any immunity under the Texas Tort Claims Act. The Parties further expressly agree that every act or omission of the City, which in any way pertains to or arises out of this Agreement, falls within the definition of governmental function. The Parties also agree that Extension is entering into this Agreement as part of its duty to provide educational and community services.

C. *Exclusion of Incidental and Consequential Damages.* Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, and to the extent permitted by law, neither Party shall be liable to the other Party (nor to any person claiming rights derived from such Party's rights) for incidental, consequential, special, punitive, or exemplary damages of any kind - including lost profits, loss of business, or other economic damage, and further including injury to property, mental anguish and emotional distress -

as a result of breach of any term of this Agreement, regardless of whether the Party was advised, had other reason to know, or in fact knew of the possibility thereof.

D. *Maximum Aggregate Liability.* Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, and to the extent permitted by law, **IN NO EVENT SHALL THE CITY OF EL PASO'S AGGREGATE LIABILITY TO EXTENSION (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY EXTENSION), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE AMOUNT OF CONSIDERATION ACTUALLY PAID BY THE CITY UNDER THE TERMS OF THIS AGREEMENT.**

E. *Intentional Risk Allocation.* Extension and the City each acknowledge that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions associated with this Agreement. The disclaimers and limitations in this Agreement are intended to limit the circumstances of liability. The remedy limitations, and the limitations of liability, are separately intended to limit the forms of relief available to the Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement in the City of El Paso on the date and year first above written.

(Signatures on following page)

CITY OF EL PASO

ATTEST:

Richarda Duffy Momsen
City Clerk

Joe Wardy
Mayor

TEXAS COOPERATIVE EXTENSION SERVICES

Name (Printed)_____

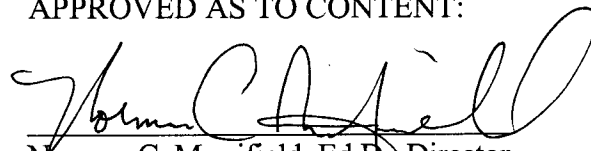
Title_____

APPROVED AS TO FORM:



John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:



Norman C. Merrifield, Ed.D., Director
Parks and Recreation Department

ATTACHMENT "A"

SCOPE OF SERVICES

The El Paso Zoo, which has a common mission with The Extension Service of non-formal public education, would like support with the following:

- Website Services
- Bilingual translation/Graphics Enhancement & Development
- Mass Media
- Marketing
- Horticulture/Landscaping Resources

Based on the information we have about the general nature of support needed, **Extension** is prepared to provide, at a minimum, the following technical support and educational programs in furtherance of our collective mission in public education.

- Limited translation of promotional materials/flyers brochures/graphics
- Limited preparation and distribution of news releases to mass media for major zoo events & on site graphic development
- Support and assistance in marketing/PR meetings to develop marketing strategies
- Conservation program on site
- Web site linkage and interface
- Education Training Resources for Horticulture and Landscaping

The El Paso Public Library, which shares a common mission with County Extension of providing informal public education, would like support in the following areas:

- Literacy programs, using library facilities & computer labs
- Child development class
- Translation services
- Linking of Library/City websites with Extension & University websites

Based on the information we have about the general nature of support needed, Extension is prepared to provide, at a minimum, the following technical support and educational programs in furtherance of our collective mission in public education.

- Monthly schedule of educational programs to be delivered via selected library locations in the City
- Training for library staff on issues of child development, psychology, and principles of child and adult education
- Limited translation of promotional materials as mutually agreed upon

The El Paso Parks & Recreation Department, which shares a common mission with Extension in providing non-formal education through recreation and is supported by a campus-based academic unit, would like support with the following:

- Support turf and irrigation management on approximately 186 city parks, to include water management system linked with a sound agronomy irrigation program
- Training and education for parks personnel in basic academic theory of parks and recreation
- Recreation program training and staff development
- Developing and assisting in the implementation of public information and public relations program

Based on the information we have about the general nature of support needed **Extension** is prepared to provide, at a minimum, the following technical support and educational programs in furtherance of our collective mission in public education.

- Quarterly training for recreation staff in academic subjects related to youth development, parks, and recreation
- Provide support and technical assistance in identifying community needs as related to youth recreation
- Assist with development and implementation of certification program for parents of youth in city programs
- Assist with development of research and evaluation instruments to assess effectiveness of youth programs
- Provide intensive training and develop comprehensive program for parks staff as necessary to develop site-specific turf grass management protocols (estimated 2-3 year program), to include basic agronomy, turf management, irrigation, soil fertility, and others as needed
- Provide three seasonal (Spring, Summer, Winter) certification programs for maintenance staff and supervisors to set minimum knowledge thresholds for parks maintenance
- Develop water auditing training course to develop the necessary human capacity to measure for water use efficiency
- Integrated pest management training and continuing education for licensed pesticide applicators on subjects related to insect identification, weed management, diseases, fungi, and other pest affecting turf, trees, and landscaping
- Limited on-call technical support for issues/problems
- Limited translation of promotional materials/flyers/brochures
- Limited preparation and distribution of news releases to mass media for major parks & recreation events
- Support and assistance in marketing/PR meetings to develop marketing strategies
- Master Volunteer support of selected projects and programs through Master Gardens and Master Naturalists

The minimum number of hours the Cooperative Extension Service will provide the Quality of Life Departments totals 4,160 hours, which equates to 2 FTE's. The maximum service hours anticipated may total closer to 3 FTE's. The combined financial support for the minimum service level totals \$53,500.

Funding: Library/Restricted Funds
Zoo/Enterprise Fund
Parks/General Fund